



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2017-1054]

RIN 1625-AA08

**Special Local Regulation; Chesapeake Bay, between Sandy Point and Kent Island,
MD**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations for certain waters of the Chesapeake Bay. This action is necessary to provide for the safety of life on these navigable waters located between Sandy Point, Anne Arundel County, MD and Kent Island, Queen Anne's County, MD, during the Bay Bridge Paddle on June 2, 2018 (alternate date of June 3, 2018). This action will prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander.

DATES: This rule is effective from June 2, 2018, through June 3, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-1054 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard published a Notice of Proposed Rulemaking on January 12, 2018 (83 FR 1597), proposing to establish a special local regulation for the Bay Bridge Paddle, on June 2, 2018 (rain date of June 3, 2018). The Coast Guard received one comment. The Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM) on April 9, 2018 (83 FR 15096), to amend the proposed special local regulation to increase the size of the paddle race area for the Bay Bridge Paddle, on June 2, 2018 (alternate date of June 3, 2018), and reopened the comment period to account for this change. The comment period closed May 9, 2018. The Coast Guard received three additional comments on the second request for comments for a total of four comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the date of the event, it would be impracticable to make the regulation effective 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233, which authorizes the Coast Guard to establish and define special local regulations to promote the safety of life on navigable waters during regattas or marine parades. The Captain of the Port (COTP) Maryland-National Capital Region has determined that potential hazards associated with the paddle race event would be a safety concern for anyone intending to operate within certain waters of the Chesapeake Bay between Sandy Point and Kent Island, MD. The purpose of this rulemaking is to protect event participants, spectators, and transiting vessels on specified waters of the Chesapeake Bay before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received four comments total on our NPRM published February 12, 2018 and our SNPRM published April 9, 2018. One comment provided support for the Coast Guard's rulemaking. The other three comments addressed issues not related to this rulemaking. Special local regulations are promulgated in conjunction with a marine event to promote safety of life on the navigable waters immediately before, during, and immediately after a marine event. Patrols to prevent dumping, warnings about the inherent dangers of swimming, and other concerns unrelated to the paddle race event, are not appropriate to include in this proceeding. Therefore, there are no substantive changes in the regulatory text of this rule from the proposed rule in the SNPRM.

This rule establishes a special local regulation that will be enforced for approximately 6 hours on either June 2 or June 3, 2018. The regulated area includes all navigable waters of the Chesapeake Bay, adjacent to the shoreline at Sandy Point State

Park and between and adjacent to the spans of the William P. Lane Jr. Memorial Bridges, from shoreline to shoreline, bounded to the north by a line drawn from the western shoreline at latitude 39°01'05.23" N., longitude 076°23'47.93" W.; thence eastward to latitude 39°01'02.08" N., longitude 076°22'40.24" W.; thence southeastward to eastern shoreline at latitude 38°59'13.70" N., longitude 076°19'58.40" W.; and bounded to the south by a line drawn parallel and 500 yards south of the south bridge span that originates from the western shoreline at latitude 39°00'17.08" N., longitude 076°24'28.36" W.; thence southward to latitude 38°59'38.36" N., longitude 076°23'59.67" W.; thence eastward to latitude 38°59'26.93" N., longitude 076°23'25.53" W.; thence eastward to the eastern shoreline at latitude 38°58'40.32" N., longitude 076°20'10.45" W., located between Sandy Point and Kent Island, MD. The enforcement and duration of the regulated area is intended to ensure the safety of event participants and vessels within the specified navigable waters before, during, and after the paddle race event lasting from 8 a.m. until 12:30 p.m. Except for Bay Bridge Paddle participants, no vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP Maryland-National Capital Region or Coast Guard Patrol Commander.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the limited size and duration of the regulated area, which would impact a small designated area of the Chesapeake Bay for 6 hours. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of the regulated area. Moreover, the rule will allow vessel operators to request permission to enter the regulated area for the purpose of safely transiting the regulated area if deemed safe to do so by the Coast Guard Patrol Commander.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of a temporary special local regulation lasting for 6 hours. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, canoe and sail board racing. It is categorically excluded from further review under

paragraph L[61] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Memorandum for Record for Categorically Excluded Actions supporting this determination is available in the docket where indicated under ADDRESSES.

A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100-- SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 33 CFR 1.05-1.

2. Add § 100.501T05-1054 to read as follows:

§ 100.501T05-1054 Special Local Regulation; Chesapeake Bay, between Sandy Point and Kent Island, MD.

(a) Regulated area. The following location is a regulated area: All navigable waters of the Chesapeake Bay, adjacent to the shoreline at Sandy Point State Park and

between and adjacent to the spans of the William P. Lane Jr. Memorial Bridges, from shoreline to shoreline, bounded to the north by a line drawn from the western shoreline at latitude 39°01'05.23" N., longitude 076°23'47.93" W.; thence eastward to latitude 39°01'02.08" N., longitude 076°22'40.24" W.; thence southeastward to eastern shoreline at latitude 38°59'13.70" N., longitude 076°19'58.40" W.; and bounded to the south by a line drawn parallel and 500 yards south of the south bridge span that originates from the western shoreline at latitude 39°00'17.08" N., longitude 076°24'28.36" W.; thence southward to latitude 38°59'38.36" N., longitude 076°23'59.67" W.; thence eastward to latitude 38°59'26.93" N., longitude 076°23'25.53" W.; thence eastward to the eastern shoreline at latitude 38°58'40.32" N., longitude 076°20'10.45" W., located between Sandy Point and Kent Island, MD. All coordinates reference North American Datum 83 (NAD 1983).

(b) Definitions. (1) Captain of the Port (COTP) Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

(3) Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(4) Participant means all persons and vessels registered with the event sponsor as participating in the Bay Bridge Paddle event or otherwise designated by event sponsor as having a function tied to the event.

(c) Special local regulations. (1) The COTP or Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard Patrol Commander may terminate the event, or the operation of any support vessel participating in the event, at any time it is deemed necessary for the protection of life or property.

(2) Except for participants and vessels already at berth, all persons and vessels within the regulated area at the time it is implemented are to depart the regulated area.

(3) Persons and vessels desiring to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland-National Capital Region or Coast Guard Patrol Commander. The COTP Maryland-National Capital Region can be contacted at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). During the enforcement period, persons or vessel operators may request permission to transit, moor, or anchor within the regulated area from the Coast Guard Patrol Commander on Marine Band Radio, VHF-FM channel 16 (156.8 MHz).

(4) The Coast Guard may be assisted in the patrol and enforcement of the regulated area by other Federal, State, and local agencies. The Coast Guard Patrol

Commander and official patrol vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz).

(5) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) Enforcement period. This section will be enforced from 7 a.m. to 1:30 p.m. on June 2, 2018, and, if necessary due to inclement weather, from 7 a.m. to 1:30 p.m. on June 3, 2018.

Dated: May 17, 2018

Joseph B. Loring
Captain, U.S. Coast Guard
Captain of the Port Maryland-National Capital Region.

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